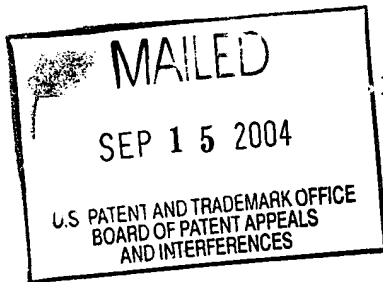


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte NORBERT WOLTERS
and
RICHARD WUBBELS

Application No. 09/721,512

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on July 28, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On February 2, 2004, appellants filed an Appeal Brief (Paper No. 19). On May 3, 2004, the examiner entered an Examiner's Answer (Paper No. 21). On page 3, section (8) of the Answer, the examiner states "[t]he copy of the appealed claims contained in the Appendix to the brief is not correct . . . appellant [sic, appellants] agreed to authorize an examiner's amendment to claims 1 and 2 to correct inconsistencies in claim language. In both

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claims, the amendment changed 'feeding element' to 'feeding device," and the examiner reproduces a corrected copy of claim 1. However, the examiner has not reproduced a correct copy of claim 2, which was also amended.

In addition, on page 4 of the Examiner's Answer mailed on May 3, 2004 (Paper No. 20), the examiner states the grounds of rejection in section (10) and refers back to Paper No. 15 for the rejection of claims 2, 3, 5, 7, 9 and 10 under 35 U.S.C. § 102(b) and of claims 4, 6, 8 and 11-21 under 35 U.S.C. § 103(a). However, on pages 4 and 5 of the Final rejection mailed on June 3, 2003 (Paper No. 15), the examiner relies upon references that are not cited in section (9) Prior Art of Record in the Examiner's Answer (Paper No. 20); namely, the Austrian Patent No. AT 301,234, Herron (Patent No. 6,032,444), and Miller (Patent No. 4,148,175) references.

Accordingly, it is

ORDERED that the application is returned to the examiner for resolution of the following issues:

- (1) to reproduce a corrected copy of claim 2 on appeal;

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(2) to clarify for the record the prior art of record
and the rejection of claims on appeal; and

(3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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